

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MELISA STEWART, Individually;

Plaintiff,

vs.

PRECISE PROPERTIES, LLC,  
HAROLD'S KOFFEE HOUSE, INC., AND  
JOHN DOES 1 - 2 INCLUSIVE,

Defendants.

**8:15CV376**

**ORDER**

Defendant has moved for Payment of Attorney's Fees Pursuant to the Court's Order (Filing No. 42). The court entered an order awarding fees after Plaintiff failed to timely respond to Defendants' discovery, and her counsel failed to respond to Defendants' motion to compel and for sanctions.

Before filing the pending motion for fees, defense counsel provided his billing statement to Plaintiff's counsel. Plaintiff's counsel believed defense counsel's billing was too high in terms of both time and defense counsel's hourly rate. (Filing No. 45-4). To avoid court intervention and facilitate working amicably with Plaintiff's counsel in the future, defense counsel agreed to accept a discounted fee award of \$1200. But when the matter needed to be discussed to avoid further motion practice, Plaintiff's counsel did not respond to voicemails or emails to discuss the amount of fees to be awarded.

Plaintiff has now failed to respond to Defendants' motion for payment of fees and the deadline for doing so has passed. The motion is deemed unopposed. Moreover, upon review of defense counsel's hours and hourly rate, the court finds defense counsel's billing is reasonable.

Finally, the court finds Plaintiff failed to timely respond to discovery, and her counsel failed to respond to the motion to compel and for sanctions, and then failed to adequately discuss the issue of fees., thus necessitating Defendants' pending motion for an award of fees. As such, plaintiff and her counsel are jointly liable for the fees incurred by Defendants and awarded under this order.

Accordingly,

IT IS ORDERED:

- 1) Defendants' motion for an award of fees, (Filing No. 45), is granted.
- 2) Defendants are awarded \$1,794.00 for attorney's fees.
- 3) Plaintiff and her counsel are jointly responsible for the fees awarded under this order, with payment due on or before February 6, 2017.

January 4, 2017

BY THE COURT:

*s/ Cheryl R. Zwart*  
United States Magistrate Judge